

BOIES SCHILLER FLEXNER LLP

Mark C. Mao (CA Bar No. 236165)
mmao@bsfllp.com
44 Montgomery Street, 41st Floor
San Francisco, CA 94104
Telephone: (415) 293 6858
Facsimile: (415) 999 9695

SUSMAN GODFREY L.L.P.

William Christopher Carmody (pro hac vice)
bcarmody@susmangodfrey.com
Shawn J. Rabin (pro hac vice)
srabin@susmangodfrey.com
1301 Avenue of the Americas, 32nd Floor
New York, NY 10019
Telephone: (212) 336-8330

MORGAN & MORGAN

John A. Yanchunis (pro hac vice)
jyanchunis@forthepeople.com
Ryan J. McGee (pro hac vice)
rmcgee@forthepeople.com
201 N. Franklin Street, 7th Floor
Tampa, FL 33602
Telephone: (813) 223-5505

*Attorneys for Plaintiffs; additional counsel
listed in signature blocks below*

**QUINN EMANUEL URQUHART &
SULLIVAN, LLP**

Andrew H. Schapiro (*pro hac vice*)
andrewschapiro@quinnemanuel.com
191 N. Wacker Drive, Suite 2700
Chicago, IL 60606
Telephone: (312) 705-7400
Facsimile: (312) 705-7401

Stephen A. Broome (CA Bar No. 314605)
stephenbroome@quinnemanuel.com
Viola Trebicka (CA Bar No. 269526)
violatrebicka@quinnemanuel.com
865 S. Figueroa Street, 10th Floor
Los Angeles, CA 90017
Telephone: (213) 443-3000
Facsimile: (213) 443-3100

Jomaire A. Crawford (admitted *pro hac vice*)
jomairecrawford@quinnemanuel.com
51 Madison Avenue, 22nd Floor
New York, NY 10010
Telephone: (212) 849-7000
Facsimile: (212) 849-7100

*Attorneys for Defendant; additional counsel
listed in signature blocks below*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION**

CHASOM BROWN, WILLIAM BYATT,
JEREMY DAVIS, CHRISTOPHER
CASTILLO, and MONIQUE TRUJILLO,
individually and on behalf of themselves and
all others similarly situated,

Plaintiffs,

v.

GOOGLE LLC,

Defendant.

Case No. 4:20-cv-03664-YGR-SVK

**JOINT SUBMISSION RE: SEALING
PORTIONS OF THE MARCH 17, 2022
HEARING TRANSCRIPT**

Judge: Hon. Susan van Keulen, USMJ

1 May 19, 2022

2 Submitted via ECF

3 Magistrate Judge Susan van Keulen
4 San Jose Courthouse
5 Courtroom 6 - 4th Floor
6 280 South 1st Street
7 San Jose, CA 95113

8 Re: Joint Submission Re: Sealing Portions of the March 17, 2022 Hearing Transcript
9 *Brown v. Google LLC*, Case No. 4:20-cv-03664-YGR-SVK (N.D. Cal.)

10 Dear Magistrate Judge van Keulen:

11 Pursuant to Your Honor's March 17, 2022 Order Releasing the Sealed March 17, 2022
12 Hearing Transcript (Dkt. 500) and May 10, 2022 Redaction Order (Dkt. 575), Plaintiffs and Google
13 LLC ("Google") jointly submit this statement.
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Google respectfully seeks to seal the following portions of the March 17, 2022 Hearing Transcript (“Transcript”), which contain Google’s confidential and proprietary information, including details related to Google’s internal systems, projects, identifiers, and their proprietary functions, that Google maintains as confidential in the ordinary course of its business and is not generally known to the public or Google’s competitors. This information is highly confidential and should be protected. Plaintiffs also seek to seal one portion of the transcript that references sensitive medical information.

This Administrative Motion pertains to the following information contained in the Transcript:

Document	Portions to be Filed Under Seal	Party Claiming Confidentiality
Transcript for March 17, 2022 Sealed Proceedings	Portions highlighted in yellow at: Pages 13:7, 13:24-14:1, 14:5, 14:10, 14:14, 14:22, 14:24, 15:3	Google
Transcript for March 17, 2022 Sealed Proceedings	Portion highlighted in yellow at 4:15-17	Plaintiffs

The parties conferred on the proposed redactions to the Transcript. Plaintiffs take no position on sealing Google’s proposed redactions. Google takes no position on sealing Plaintiffs’ proposed redactions.

I. LEGAL STANDARD

The common law right of public access to judicial records in a civil case is not a constitutional right and it is “not absolute.” *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 598 (1978) (noting that the “right to inspect and copy judicial records is not absolute” and that “courts have refused to permit their files to serve as reservoirs of . . . sources of business information that might harm a litigant’s competitive standing”). Sealing is appropriate when the information at issue constitutes “competitively sensitive information,” such as “confidential research, development, or commercial information.” *France Telecom S.A. v. Marvell Semiconductor Inc.*, 2014 WL 4965995, at *4 (N.D. Cal. Oct. 3, 2014); *see also Phillips v. Gen. Motors Corp.*, 307 F.3d

1 1206, 1211 (9th Cir. 2002) (acknowledging courts’ “broad latitude” to “prevent disclosure of
 2 materials for many types of information, including, but not limited to, trade secrets or other
 3 confidential research, development, or commercial information”).

4 **II. THE ABOVE IDENTIFIED MATERIALS EASILY MEET THE “GOOD CAUSE”**
 5 **STANDARD AND SHOULD ALL BE SEALED**

6 Courts have repeatedly found it appropriate to seal documents that contain medical
 7 information or “business information that might harm a litigant’s competitive standing.” *Nixon*,
 8 435 U.S. at 589-99; *see also Turner v. United States*, 2019 WL 4732143, at *9 (finding good cause
 9 to seal “confidential medical information”). Good cause to seal is shown when a party seeks to seal
 10 materials that “contain[] confidential information about the operation of [the party’s] products and
 11 that public disclosure could harm [the party] by disclosing confidential technical
 12 information.” *Digital Reg. of Texas, LLC v. Adobe Sys., Inc.*, 2014 WL 6986068, at *1 (N.D. Cal.
 13 Dec. 10, 2014). Materials that could harm a litigant’s competitive standing may be sealed even
 14 under the “compelling reasons” standard. *See e.g., Icon-IP Pty Ltd. v. Specialized Bicycle*
 15 *Components, Inc.*, 2015 WL 984121, at *2 (N.D. Cal. Mar. 4, 2015) (information “is appropriately
 16 sealable under the ‘compelling reasons’ standard where that information could be used to the
 17 company’s competitive disadvantage”) (citation omitted).

18 Here, the Transcript comprises confidential information regarding highly sensitive features
 19 of Google’s internal systems and operations that Google does not share publicly. Specifically, this
 20 information provides details related to various types of internal systems, projects, identifiers, and
 21 their proprietary functions. Such information reveals Google’s internal strategies, system designs,
 22 and business practices for operating and maintaining many of its important services while complying
 23 with legal and privacy obligations.

24 Public disclosure of the above-listed information would harm Google’s competitive standing
 25 it has earned through years of innovation and careful deliberation, by revealing sensitive aspects of
 26 Google’s proprietary systems, strategies, designs, and practices to Google’s competitors. That alone
 27 is a proper basis to seal such information. *See, e.g., Free Range Content, Inc. v. Google Inc.*, No.
 28 14-cv-02329-BLF, Dkt. No. 192, at 3-9 (N.D. Cal. May 3, 2017) (granting Google’s motion to seal

1 certain sensitive business information related to Google’s processes and policies to ensure the
2 integrity and security of a different advertising system); *Huawei Techs., Co. v. Samsung Elecs. Co.*,
3 No. 3:16-cv-02787-WHO, Dkt. No. 446, at 19 (N.D. Cal. Jan. 30, 2019) (sealing confidential sales
4 data because “disclosure would harm their competitive standing by giving competitors insight they
5 do not have”); *Trotsky v. Travelers Indem. Co.*, 2013 WL 12116153, at *8 (W.D. Wash. May 8,
6 2013) (granting motion to seal as to “internal research results that disclose statistical coding that is
7 not publically available”).

8 Moreover, if publicly disclosed, malicious actors may use such information to seek to
9 compromise Google’s internal systems and data structures. Google would be placed at an increased
10 risk of cybersecurity threats, and data related to its users could similarly be at risk. *See, e.g., In re*
11 *Google Inc. Gmail Litig.*, 2013 WL 5366963, at *3 (N.D. Cal. Sept. 25, 2013) (sealing “material
12 concern[ing] how users’ interactions with the Gmail system affects how messages are transmitted”
13 because if made public, it “could lead to a breach in the security of the Gmail system”). The security
14 threat is an additional reason for this Court to seal the identified information.

15 The information Google seeks to redact is the minimal amount of information needed to
16 protect its internal systems and operations from being exposed to not only its competitors but also
17 to nefarious actors who may improperly seek access to and disrupt these systems and operations.
18 The “good cause” rather than the “compelling reasons” standard should apply but under either
19 standard, Google’s sealing request is warranted.

20 **III. CONCLUSION**

21 For the foregoing reasons, Google respectfully requests that the Court seal the identified
22 portions of the Transcript.
23
24
25
26
27
28

Respectfully,

DATED: May 19, 2022

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

BOIES SCHILLER FLEXNER LLP

/s/ Andrew H. Schapiro

/s/ Mark C. Mao

Andrew H. Schapiro (admitted *pro hac vice*)
andrewschapiro@quinnemanuel.com

Mark C. Mao (CA Bar No. 236165)

mmao@bsfllp.com

Teuta Fani (admitted *pro hac vice*)

Sean Phillips Rodriguez (CA Bar No. 262437)

teutafani@quinnemanuel.com

srodriguez@bsfllp.com

191 N. Wacker Drive, Suite 2700

Beko Reblitz-Richardson (CA Bar No. 238027)

Chicago, IL 60606

brichardson@bsfllp.com

Telephone: (312) 705-7400

44 Montgomery Street, 41st Floor

Facsimile: (312) 705-7401

San Francisco, CA 94104

Tel: (415) 293 6858

Fax: (415) 999 9695

Diane M. Doolittle (CA Bar No. 142046)

James W. Lee (*pro hac vice*)

dianedoolittle@quinnemanuel.com

jlee@bsfllp.com

Sara Jenkins (CA Bar No. 230097)

Rossana Baeza (*pro hac vice*)

sarajenkins@quinnemanuel.com

rbaeza@bsfllp.com

555 Twin Dolphin Drive, 5th Floor

100 SE 2nd Street, Suite 2800

Redwood Shores, CA 94065

Miami, FL 33130

Telephone: (650) 801-5000

Tel: (305) 539-8400

Facsimile: (650) 801-5100

Fax: (305) 539-1304

Stephen A. Broome (CA Bar No. 314605)

William Christopher Carmody (*pro hac vice*)

stephenbroome@quinnemanuel.com

bcarmody@susmangodfrey.com

Viola Trebicka (CA Bar No. 269526)

Shawn J. Rabin (*pro hac vice*)

violatrebicka@quinnemanuel.com

srabin@susmangodfrey.com

Crystal Nix-Hines (Bar No. 326971)

Steven Shepard (*pro hac vice*)

crystalnixhines@quinnemanuel.com

sshepard@susmangodfrey.com

Alyssa G. Olson (CA Bar No. 305705)

Alexander P. Frawley (*pro hac vice*)

alyolson@quinnemanuel.com

afrawley@susmangodfrey.com

Marie Hayrapetian (CA Bar No. 315797)

SUSMAN GODFREY L.L.P.

mariehayrapetian@quinnemanuel.com

1301 Avenue of the Americas, 32nd Floor

865 S. Figueroa Street, 10th Floor

New York, NY 10019

Los Angeles, CA 90017

Tel: (212) 336-8330

Telephone: (213) 443-3000

Amanda Bonn (CA Bar No. 270891)

Facsimile: (213) 443-3100

abonn@susmangodfrey.com

SUSMAN GODFREY L.L.P.

1900 Avenue of the Stars, Suite 1400

Los Angeles, CA 90067

Tel: (310) 789-3100

John A. Yanchunis (*pro hac vice*)

jyanchunis@forthepeople.com

Ryan J. McGee (*pro hac vice*)

rmcgee@forthepeople.com

1 Jomaire A. Crawford (admitted *pro hac vice*)
jomairecrawford@quinnemanuel.com
2 51 Madison Avenue, 22nd Floor
New York, NY 10010
3 Telephone: (212) 849-7000
4 Facsimile: (212) 849-7100

MORGAN & MORGAN, P.A.
201 N Franklin Street, 7th Floor
Tampa, FL 33602
Tel: (813) 223-5505
Fax: (813) 222-4736

5 Josef Ansorge (admitted *pro hac vice*)
josefansorge@quinnemanuel.com
6 Xi ("Tracy") Gao (CA Bar No. 326266)
tracygao@quinnemanuel.com
7 Carl Spilly (admitted *pro hac vice*)
carlspilly@quinnemanuel.com
8 1300 I Street NW, Suite 900
9 Washington D.C., 20005
Telephone: (202) 538-8000
10 Facsimile: (202) 538-8100

Michael F. Ram (CA Bar No. 104805)
mram@forthepeople.com
MORGAN & MORGAN, P.A.
711 Van Ness Avenue, Suite 500
San Francisco, CA 94102
Tel: (415) 358-6913

Attorneys for Plaintiffs

11 Jonathan Tse (CA Bar No. 305468)
jonathantse@quinnemanuel.com
12 50 California Street, 22nd Floor
13 San Francisco, CA 94111
Telephone: (415) 875-6600
14 Facsimile: (415) 875-6700

15 *Attorneys for Defendant Google LLC*
16
17
18
19
20
21
22
23
24
25
26
27
28